

**Bureau of Land Management  
Winnemucca District Office  
Humboldt River Field Office**

**Categorical Exclusion**

**CX#: DOI-BLM-NV-W010-2012-0044-CX**

**Date: 7/12/2012**

Lease / Case File / Serial #: N-91061

Regulatory Authority (CFR or Law): 2920

BLM Manual: 2920

Subject Function Code: 2900

Is the project located within a Preliminary Priority Habitat? ☒ Yes ☐ No

Is the project located within a Preliminary General Priority Habitat? ☐ Yes ☒ No

Is the project located within a National Landscape Conservation System feature (NCA, Wilderness, WSA, ISA, Scenic or Historic Trails)? ☐ Yes ☒ No

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1. BLM District Office: Winnemucca District Office

2. Name of Project Lead: Joey Carmosino

3. Project Title: Water Canyon Yurt

4. Applicant: Pat Donovan / Northern NV Recreation Coalition

5. Project Description: (briefly describe who, what, when, where, why, how)

The Water Canyon Yurt Project is being proposed by the Northern Nevada Recreation Coalition (NNRC), a non-profit 501 (3) (c) organization of outdoor enthusiasts living in and around the Winnemucca area. As proposed, the yurt platform would be located approximately 1 ½ miles above the upper Water Canyon gate. This gate is closed to vehicular traffic from November 1 to June 1. The permit if granted would be for a three year period, at which time the proponent would have the option to renew.

The construction of the semi-permanent platform would require a minimal ground disturbance in that the 14 foot diameter deck would rest on 10 concrete pier blocks each being 1 foot square. A similar 4 foot square adjacent platform (with no more than 4 concrete blocks) would be constructed to support a composting toilet. Vegetation would have to be manually cut from the platform site and the only soil disturbance would be from digging with hand tools to level out the 10 - 14 concrete pier blocks. Both the yurt and composting toilet would be in place only during the late fall and early winter months – the yurt being assembled just prior to the seasonal closing of the upper gate and disassembled in the

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February – March time frame. The 14 foot diameter wooden deck (and adjacent 4 foot square decking for the composting toilet) would be constructed in such a way as to insure their complete removal if ever needed. Furthermore, the method of construction would also insure that the area occupied by these structures could be easily rehabilitated to its natural condition. The composting toilet is fully self-contained and easily transported. Disposal of the composted material would be required on a yearly basis.

A 16 year old resident of Winnemucca is using the construction of the yurt platform to fulfill a required element for the rank of Eagle Scout.

Project dimensions (length, width, height, depth): 14 foot diameter platform plus an attached adjacent 4 square foot platform

Total Acres: Approximately 0.001 acres or 154 square feet.

BLM Acres: Approximately 0.001 acres or 154 square feet.

Will the project result in new surface disturbance? ☒ Yes ☐ No

Has the project area been previously disturbed? ☐ Yes ☒ No ☐ N/A

If yes, what percent of the project area has been disturbed? 0 % . If only part of the project area has been disturbed, indicate disturbed area on map. Describe disturbance (and attach photo of disturbed area if you have one):

6. Legal Description: T.35N, R.39 E., sec.18, NW 1/4 SE 1/4

USGS 24k Quad name: Winnemucca East

100k map name: Winnemucca

Land Status: ☒ BLM ☐ Private ☐ Other\_\_\_\_\_.

**Part I: Plan Conformance Review**

The Proposed Action is subject to the:

- ☐ Paradise-Denio Management Framework Plan
- ☒ Sonoma-Gerlach Management Framework Plan
- ☐ Black Rock Desert-High Rock Canyon Emigrant Trails NCA and Associated Wilderness and Other Contiguous Lands in Nevada RMP

The proposed action is in conformance with the applicable Land Use Plan (LUP) because it is specifically provided for in the following LUP decision(s):

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions):

**Objective R1:** Provide as many recreational opportunities as possible without undo environmental degradation in the Sonoma-Gerlach area.

**Objective L1:** Provide maximum acreage of public land for multiple use and sustained yield.

Also FLPMA sec. 302

**Part II: NEPA Review**

Categorical Exclusion Review: This Proposed Action qualifies as a categorical exclusion under:

☐ 43 CFR 46.210 DOI Implementation of NEPA of 1969, Listing of Departmental Categorical Exclusions (*formerly 516 DM2 Appendix 1*)

☒ 516 DM 11.9, (BLM) E (19) Issuance of short term (3 years or less) rights-of-way land use authorization for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition

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**ESA and BLM Sensitive Status Species**

<b>Evaluation Criteria</b>	<b>Yes</b>	<b>No</b>
1. Are species listed under the Endangered Species Act likely to occur in the project area? If yes, list the species in Table 1 below. Verify with USFWS or use approved list.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Are BLM NV Sensitive Species, based upon the current IM, likely to occur in the project area? If yes, list the species in the Table 1 below.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Could the proposed action result in “take” under the Migratory Bird Treaty Act? If yes, attach appropriate mitigation measures.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Table 1. Special Status Species that may occur in the project area:**

<b>ESA</b>	<b>BLM</b>	<b>Common (Scientific) Name</b>	<b>May Be Affected?</b>	<b>Mitigation for BLM Sensitive Species (Attach ESA Section 7 Compliance to Form)</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Greater sage-grouse ( <i>Centrocercus urophasianus</i> )	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	None
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Northern goshawk ( <i>Accipiter gentilis</i> )	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	In order to avoid potential impacts to breeding birds, construction of the yurt platform should occur after August 31 <sup>st</sup> , outside of the migratory bird nesting season which runs from March 1 <sup>st</sup> through August 31 <sup>st</sup> .
<input type="checkbox"/>	<input type="checkbox"/>	Brewer’s sparrow ( <i>Spizella breweri</i> )	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	See Northern goshawk

**Table 2 Migratory Bird Treaty Act Consideration**

<b>Potential MBTA Species w/in the Project Area Common (Scientific) Name</b>	<b>May Be Affected?</b>	<b>Recommended Mitigation</b>
Red-tailed hawk ( <i>Buteo jamaicensis</i> )	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	See Northern goshawk
Cooper’s hawk ( <i>Accipiter cooperii</i> )	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	See Northern goshawk
Green-tailed towhee ( <i>Pipilo chlorurus</i> )	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	See Northern goshawk

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Northern flicker ( <i>Colaptes auratus</i> )	<input checked="" type="checkbox"/> Yes	See Northern goshawk
Bullock's oriole ( <i>Icterus bullockii</i> )	<input type="checkbox"/> No	

*Mitigation Measures/Remarks:* Windloving buckwheat (*Eriogonum anemophilum*) occurs near the project area. The two sites identified as potential yurt construction areas were checked on 06/29/2012 for potential habitat for this species. No potential habitat was identified for windloving buckwheat within 100 feet of either proposed construction site.

In order to avoid potential impacts to breeding birds, construction of the yurt platform should occur after August 31<sup>st</sup>, outside of the migratory bird nesting season which runs from March 1<sup>st</sup> through August 31<sup>st</sup>.

The Proposed Action has been reviewed to determine if any exceptions described in 43 CFR 46.215 Categorical Exclusions: Extraordinary Circumstances apply. (See attached page)

### **Part III: DECISION:**

I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved land use plan and that no other environmental analysis is required.

☒ Project authorization is subject to mitigation measures identified above. (This is a NEPA Decision. A separate program implementation decision is necessary.)

☐ Based on regulatory authority or law that allows BLM to take action, it is my decision to allow for implementation of the project, as described, with the mitigation measures identified above and attached as stipulations, conditions of approval, terms of conditions, etc. This is a combined NEPA and program implementation decision.

Authorized Official: \S\Michael Truden      Date: 7-24-12  
(Signature)

#### **Administrative Review or Appeal Opportunities**

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to Michael Truden, Humboldt River Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make. Form 1842-1 provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California 95825-1890. Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

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In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).